

REMARKS/ARGUMENTS

Amendments

Amendment of claims 1, 23, 24, and 51 is requested to rewrite these claims such that they depend on claim 27. Claim 27 is amended to clarify the scope of the invention by deleting the word "selected." The requested amendments to claims 1, 23, 24, 27 and 51 do not introduce any new matter. With this response, claims 1-68 are pending.

Restrictions

The Office Action of March 16, 2006, requires restriction to one of the following four inventions:

Group I (claims 1-23): A method of processing blood including the steps of: removing blood from a patient, processing the blood, returning the blood at a return rate, and varying the flow rate over time.

Group II (claim 24): A method of processing blood including the steps of: removing blood from a patient, processing the blood, returning the blood, and repeating the draw and return cycles while adjusting the draw rate.

Group III (claims 25-50): A method of processing blood including the steps of: determining the total blood volume of a patient, removing blood from a patient at a particular rate, processing the blood, and returning the blood at a particular flow rate.

Group IV (claims 51-68): A method of processing blood including the steps of: removing blood during a draw cycle, conducting the removed blood through a separation system, collecting a first portion of the separated blood, recirculating a

second portion, returning a third portion of the blood to the patient, wherein the separation is controlled by a claimed selection criteria.

The Office Action asserts that the inventions are distinct, each from the other, alleging "the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect." In addition, the Office Action alleges "the inventions require a different field of search."

Applicants respectfully disagree with the Examiner's characterization of the claims of the present application, and requests reconsideration and withdrawal of the pending restriction requirement in light of the following argument and amendments. Pursuant to the requirements of 37 C.F.R. § 1.143, however, Applicants provisionally elect the invention of Group III (claims 25-50), with traverse.

Applicants respectfully disagree with the characterization that the inventions are "not capable of use together." Applicants emphasize that the inventions can be, and indeed routinely are used together and, in particular, are capable of implementation using a single blood processing device. To emphasize the closeness of the claims of Groups I-IV, however, each of independent claims 1 and 23 (Group I), 24 (Group II) and 51 (Group IV) have been amended to depend from claim 27. The relatedness of these claims is also evidenced by the fact that they all include comparable steps of: determining total blood volume, removing blood at a particular rate, processing the removed blood, and returning at least a portion of the return component at a return flow rate derived from the total blood volume of the subject. Accordingly, Applicant respectively requests reconsideration and withdrawal of the pending restriction requirement involving Groups I-IV.

Furthermore, Applicant notes that the claims of Groups I-IV, as amended, are related enough so as not to impose a serious burden on the Examiner in the context of

prior art searching, evaluation and substantive examination. As noted in the Office Action for the originally filed claims, each of Groups I-IV is classified in class 604, and Groups I-III are all in subclass 4.01. The presently amended claims mean that similar prior art would need to be compiled and analyzed for an evaluation of the patentability of the claims of each of Groups I-IV. Because no undue search burden is placed on the Office, Applicant respectfully requests reconsideration and withdrawal of the Examiner's restriction requirement involving Groups I-IV in view of the claim amendments.

CONCLUSION

In view of the foregoing, this case is considered to be in condition for allowance and passage to issuance is respectfully requested. Applicant reserves the right to pursue the non-elected inventions reflected in originally filed independent claims 1, 24, and 51 in subsequent Divisional Applications.

It is believed that no fees are required with this submission. If this is incorrect, however, please deduct the appropriate fee for this submission and any extension of time required from Deposit Account No. 07-1969.

Respectfully submitted,

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